

STATE OF VERMONT
HUMAN SERVICES BOARD

In re)	Fair Hearing No. 16,107
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Appeal of)	
)	

INTRODUCTION

The petitioner appeals a decision by the Office of Home Heating Fuel Assistance to deny her benefits for the 1999-2000 fuel season based upon her failure to incur a minimum fuel liability. The issue is whether the petitioner is limited to her costs in obtaining only her primary heat in the calculation of her eligibility.

FINDINGS OF FACT

1. The petitioner receives income from ANFC, SSI, and her son's Social Security of \$943.66 per month. She lives in a three-bedroom apartment in a multi-family dwelling that she heats primarily with natural gas. She supplements her primary heating with electric units in some rooms.

2. The petitioner receives assistance with her rent from the Vermont State Housing Authority. The market rent on her apartment is \$545 a month. The petitioner pays \$178 a month after her subsidy.

3. The petitioner made a timely application for fuel assistance for the 1999-2000 heating season. She was denied because she had not incurred the minimum (\$125 per year) fuel expenditure required for aid. In determining her eligibility the Department used a "standard" figure from a

"proxy" table to determine the amount of fuel used in her apartment. That standard figure--\$440--was reduced by the amount of the petitioner=s fuel and utility subsidy from the housing authority--\$348--which amounted to \$92. Thus, the Department determined that the petitioner=s fuel liability for the coming year did not exceed the program minimum and it denied her assistance.

4. The petitioner appealed that denial because she feels it is unfair not to use her actual fuel costs because she incurs additional cost in electricity to provide supplemental heat. The Department's calculations considered only the petitioner's costs in obtaining fuel for her primary heat source, which is gas.

ORDER

The decision of the Department is affirmed.

REASONS

The income eligibility requirements for the fuel assistance program are set out by the provisions of state law found at 33 V.S.A. § 2600 et seq. Prior to this year, the legislature required the fuel office to initiate a determination on eligibility by obtaining the actual fuel consumption figures of the household for the prior year. 33 V.S.A. § 2604(b). On June 1, 1999, the legislature amended

that section to provide that an annual heating fuel cost is determined for eligible households based on standard heating cost tables (referred to as Proxy tables). See W.A.M. 2906.2(b).

Under the regulations the heating assistance office is required to determine eligibility by using the "annual primary heating fuel cost" from the new Proxy table at W.A.M. 2906.4 and P-2905. W.A.M. § 2906.2(6). "Primary heating source" is defined in § 2901(7) as "the fuel from which the household derives the largest portion of its heat". There are no provisions in the regulations for considering the costs of supplemental heat sources.

For the petitioner, who lives in a three-bedroom apartment in a multi-family building that is heated primarily with natural gas, that annual primary heating fuel cost under the proxy tables is \$440. From that amount, the Department is required to deduct any heating allowance the applicant may receive from the state housing authority to obtain the net annual heating fuel cost. W.A.M. §§ 2906.1 and 2906.2(B). Those standards, based on information provided to the Department by the Vermont State Housing Authority, are found in a table at P-2905(C). For the petitioner (again based upon the size of her dwelling and the type of fuel) the allowance is \$348 annually. When that heating allowance (\$348) is deducted from the annual primary heating fuel cost (\$440) the result is \$92 for the

petitioner's net annual heating fuel cost.

The next step in the eligibility process is a comparison of that net annual heating fuel cost figure with figures found in a table of minimum heating fuel costs. W.A.M. 2906.2(C). That table operates on a sliding scale depending upon the income of the applicant, which is then expressed as a percentage of the federal poverty guidelines. W.A.M. § 2906.3. The petitioner's income is in the 85-94 percent-of-poverty category, which assigns her a minimum net heating fuel cost of \$196 annually. The petitioner's net heating fuel cost (\$92) was compared with that figure, and was found to be less. The regulation specifically provides that "if the household's fuel costs for its primary heating source are equal to or less than the minimum fuel cost set forth in this table, the household will be ineligible for Fuel Program benefits.≅ W.A.M. 2906.2(C).

Inasmuch as its calculations in this matter are in accord with the pertinent regulations, the Board is bound to uphold the decision of the Office of Home Heating Fuel Assistance. 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

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